



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|--------------------------|------------------|
| 09/918,107 | 07/30/2001 | Patrick Aurricchio | 976.1002/YOR920010210US1 | 2781 |

7590 09/01/2005
Davidson, Davidson & Kappel, LLC
485 Seventh Avenue
New York, NY 10018

EXAMINER

CHOI, PETER H

ART UNIT PAPER NUMBER

3623

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,107

Applicant(s)

AURRICHIO ET AL.

Examiner

Peter Choi

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 28-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 28-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/30/01.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. Claims 1-26, and 28-55 are pending in the application.

Claim Objections

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

The claims have not been renumbered, but the Examiner will point out that claim 27 is non-existent in the claims submitted 7/30/01, and thus has not been considered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 3623

4. Claims 1-26, and 28-55 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for accepting forms containing performance information, does not reasonably provide enablement for performance information as a function of "uniform data definitions" or for sorting said performance data "as a function of an area of interest". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims.

In light of the submitted specification and claim language, it is unclear how a function of uniform data definitions is applied to performance data and whether it affects acceptance by the system. It is also unclear if the cited function of uniform data definitions pertains to the system's acceptance of forms, or if the performance information itself. Furthermore, it is unclear whether the forms are merely a set of uniform data definitions that have been applied to raw data in order to derive performance information.

Similarly, it is unclear how a function of an area of interest is applied to performance information and whether it affects storage in a database. For purposes of the following art rejection, the Examiner has assumed that the performance information has a function of uniform data definitions applied to it, and presented to the system as a form. The Examiner has also assumed that performance information is stored in a

Art Unit: 3623

database according to an area of interest, specifically that performance information is stored with similarly directed and relevant information.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6, 9-13, 15-24, 28-32, 34-43, 46-50, and 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beldock (U.S Patent #6,490,565).

As per claim 1, Beldock teaches a method for monitoring performance information and providing notification when the performance information indicates performance reaching a predetermined level, the method comprising the steps of:

(a) a program administrator setting performance criteria (**program defines the criteria which must be met by a participant in the program in order to be in compliance**) in a system [Column 3, lines 28-30, Claim 1A];

(c) the system storing the performance information in a database (**compliance data into database 12**) as a function of an area of interest of the

Art Unit: 3623

performance information [Column 3, lines 56-57, Column 4, lines 41-43, Column 5, lines 55-57, Claims 1c, 15c];

(d) the system monitoring the performance information for conformance with the performance criteria as it is stored (**evaluate and track the compliance of a participant**) and flagging the performance information that does not conform with the performance criteria (**recording a non-compliance in the database**) so that a report can be generated, either automatically or manually, as a function of at least a portion of the currently stored performance information [Column 3, lines 56-57, 60-65, Claims 1f, 15f];

(e) the system providing notification when the performance information deviates from the performance criteria (**identified profitable environmental measure are reported to the organizers of the environmental certification program and input into the database 12; participant reports its compliance {or non-compliance} with the program to the organizers of the program**) [Column 4, lines 40-43, Column 5, lines 55-57].

Beldock does not explicitly teach:

(b) system accepting a plurality of forms from a plurality of sites, each of the forms including performance information as a function of uniform data definitions.

Beldock collects performance information from a plurality of facilities to assess program compliance with predefined criteria based on a function of performance at a

Art Unit: 3623

plurality of facilities (the program requires that 4 profitable environmental measures are presently implemented at at least one facility, 4 profitable environmental measures are implemented in at least one facility, or a combination, and that said profitable environmental measures are implemented in 75% of all facilities within 3 years of initial certification in order to maintain certification) [Column 4, line 4- Column 5, line 53].

While Beldock teaches the step of collecting performance information data from a plurality of sites, Beldock is silent regarding the use of forms. However, it is old and well known in the art that forms are used in transmitting data (such as Electronic Data Interchange, survey results, questionnaires, etc.).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Beldock to accept performance information in forms, to enable the use of data transfer means such as Electronic Data Interchange, and standardize the presentation of data on said forms (to include pre-filled data such as company name, address, etc.), which would enable the automated processing of information on the forms.

As per claims 2-5, Beldock teaches the method of claim 1 further comprising monitoring the currently stored performance information of a specific set of sites for conformance with site-specific performance criteria **(additional profitable environmental measures must be implemented in one of the organization's**

Art Unit: 3623

facilities in order to maintain the privilege of using the certification mark

{indicating compliance with the criteria of the program}} [Column 4, lines 55-57].

Official Notice is taken it is an old and well-known fact in the business arts that an organization can comprise a single site, or multiple sites; thus, the implementation of profitable environmental measures, as taught by Beldock, can encompass a single site (claim 3), a plurality of sites (claim 4), or all sites (claim 5) affiliated with an organization, meeting the limitations of the claims.

Claims 20 and 39 recite limitations similar to those discussed in the analysis of claim 2 above; therefore, the same rejection applies.

Claims 21 and 40 recite limitations similar to those discussed in the analysis of claim 3 above; therefore, the same rejection applies.

Claims 22 and 41 recite limitations similar to those discussed in the analysis of claim 3 above; therefore, the same rejection applies.

Claims 23 and 42 recite limitations similar to those discussed in the analysis of claim 5 above; therefore, the same rejection applies.

As per claim 6, Beldock does not explicitly teach the method of claim 1 wherein the step of providing notification further comprises sending notification via one or more of:

e-mail;
telephone;
facsimile;
pager; and
postal mail.

However, Official Notice is taken that distributing notification memos or documents using e-mail, telephone, facsimile, pager, or postal mail is old and well-known practice; thus, it would have been obvious to one of ordinary skill in the art at the time of invention to employ said old and well-known means in order to conveniently distribute notification in user-friendly formats to necessary recipients.

Claims 24 and 43 recite limitations similar to those discussed in the analysis of claim 6 above; therefore, the same rejection applies.

As per claim 9, Beldock teaches the method of claim 1, wherein the areas of interest include one or more of:

air (**air pollution**) [Figure 1d];
water (**water contamination**) [Figure 1d];

Art Unit: 3623

waste (**recycling; waste minimization**) [Figures 1b, 1c];
energy [Figures 1a, 1b];
toxic chemical release inventory;
containment (**removal of radon, asbestos, lead**) [Figure 1d];
regulatory activity;
cost and savings (**use of energy efficient items, renewable energy, recycling, minimizing waste**) [Figures 1a, 1b, 1c];
facility general information;
database meta information;
health and safety information [Figure 1c]; and
materials use and conservation information (**use of energy efficient items, renewable energy, recycling, minimizing waste**) [Figures 1a, 1b, 1c].

Claims 28 and 46 recite limitations similar to those discussed in the analysis of claim 9 above; therefore, the same rejection applies.

As per claim 10, Beldock teaches the method of claim 1 wherein the particular is an Air Programs Database (**air pollution**) and the performance criteria is a high limit on emissions level (**reducing site air pollution**) [Figure 1d].

Claims 29 and 47 recite limitations similar to those discussed in the analysis of claim 10 above; therefore, the same rejection applies.

As per claim 11, Beldock teaches the method of claim 1 wherein the particular database is a Waste Management Database (**Waste Minimization**) and the performance criteria is a low limit on recycling quantities and percentage rates of nonhazardous waste (**water conservation and water saving technologies, low-moisture landscaping, efficient material use, hazardous materials safety, energy efficient apparel, efficient equipment use, environmentally-friendly cleaning products**) [Figure 1c].

Claims 30 and 48 recite limitations similar to those discussed in the analysis of claim 11 above; therefore, the same rejection applies.

As per claim 12, Beldock teaches the method of claim 1 wherein the particular database is an Energy Database (**Energy Efficiency, and Use of Renewable Energy**) and the performance criteria is a high limit on energy consumption (**use of energy efficient lighting technology, commercial appliances, heating and air conditioning, water heating, commercial/industrial technologies and mechanical systems, commercial equipment, windows, insulation, doors, office equipment, solar water heating, use of renewable technologies, alternatively fueled vehicles**) [Figures 1a, 1b].

Claims 31 and 49 recite limitations similar to those discussed in the analysis of claim 12 above; therefore, the same rejection applies.

As per claim 13, Beldock does not explicitly teach the method of claim 1 wherein the particular database is a Cost and Savings Database and the performance criteria is a low limit on cost to savings ratio to ensure that economic efficiency does not fall below a predetermined level.

However, Official Notice is taken that it is old and well known in the art to employ a ratio (such as a cost:savings, cost:benefit ratio) or similar means of comparison to express the advantages of using new technologies, equipment, policies, etc. and are used to evaluate efficiency of resources.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Beldock to track costs and savings data in a database to determine the efficiency and cost:benefit ratio of implementing various programs, technologies, and equipment to be used as a tool in assessing the effectiveness of such changes in company policy.

Claims 32 and 50 recite limitations similar to those discussed in the analysis of claim 13 above; therefore, the same rejection applies.

As per claim 15, Beldock does not explicitly teach the method of claim 1 further comprising the step of assigning a specific access level to a user, the access level further comprising:

reader;

author; and

editor,

wherein the reader is limited to viewing documents, the author can view documents, create documents, and modify documents created by the author, and the editor can read, create and modify all documents.

However, Official Notice is taken that access control privileges are established by a system administrator and that users are granted different privileges that reflect their standing within the organization. Access privileges based on authority levels would give a user permission to access any data classified at the user's clearance level or lower. Access permission based upon a need-to-know basis provides an additional degree of security. Document level security ensures that users are able to access (or create or modify) only the documents they are allowed to see (or modify). By storing user profiles, users are enabled to view documents they have permission to see without being challenged to specify their access credentials.

Thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Beldock to implement data access control privilege

Art Unit: 3623

measures known in the art in order to obtain the additional benefits of additional data security as described above.

Claims 34 and 52 recite limitations similar to those discussed in the analysis of claim 15 above; therefore, the same rejection applies.

As per claim 16, Beldock does not explicitly teach the method of claim 1 further comprising the step of automatically creating an audit trail to the forms, the audit trail comprising:

- a name of an author;
- a creation data;
- a name of a modifying user; and
- a date of modification.

However, Official Notice is taken that it is old and well known in the computing arts that computer operating systems use Master File Tables to store resident attributes for each computer file, including the filename, data, times of creation/modification or access and the user who last created/modified/accessed said file.

Furthermore, Official Notice is taken that it is old and well know in the computing arts to create audit trails of data usage within the system, especially within databases. Audit trail techniques contribute to data integrity because it is desirable to have a past

Art Unit: 3623

record of events where the sequence of events can be traced. Audit trails are helpful in investigations to verify the status of something or to determine where or when unauthorized activities took place. Sometimes, those who are authorized to access data abuse that right by using it for unauthorized purposes. Audit trails make it possible to discover the offender. The audit trail can be closely monitored for any unusual activity. An audit trail is a chronological record of events that occurred in the system, and enables users to retrace the steps through the system and reconstruct the sequence of events that occurred. Audit trails store information that attribute files to an author (or modifying user) and timestamp said file (upon creation and modification).

Thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Beldock to implement audit trail measures known in the art in order to obtain the additional benefits of providing a historical record of events that enable users to determine the abusive actions and identifies of (authorized and unauthorized) users, as described above, providing a sense of accountability and responsibility amongst users.

Claims 35 and 53 recite limitations similar to those discussed in the analysis of claim 16 above; therefore, the same rejection applies.

As per claim 17, Beldock does not explicitly teach the method of claim 1 further comprising the step of creating queries to summarize data and produce useful management information.

However, Official Notice is taken that querying and querying languages (such as Structured Query Language {SQL}) are old and well known in the computing and database arts; thus it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Beldock to include the step of creating data queries, as the step of querying a database quickly retrieves useful and relevant data (instead of raw, unprocessed, and irrelevant data), which provide meaningful information on which decisions can be made.

Claims 36 and 54 recite limitations similar to those discussed in the analysis of claim 17 above; therefore, the same rejection applies.

As per claim 18, Beldock does not explicitly teach the method of claim 17 wherein the creating step further comprises sorting by a specific chemical to study a chemical's use rate and disposition across an operation.

Official Notice is taken that it is old and well known in the computing and database arts that database queries select records from one or more tables in a database according to a set of input parameters so that they can be viewed, sorted,

Art Unit: 3623

analyzed, on a common datasheet. Furthermore, there are a plurality of rules, regulations, and laws governing the usage of chemicals and the composition of chemical products. The compositional information is reviewed periodically for opportunities to change to processes that are more environmentally friendly.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Beldock to include the step of sort data by chemical, in order to compare chemical compositions to a stored set of government regulatory standards to determine compliance and assess a chemical's use rate and disposition for compliance with a plurality of regulations, rules, and laws.

Claims 37 and 55 recite limitations similar to those discussed in the analysis of claim 18 above; therefore, the same rejection applies.

As per claim 19, Beldock teaches a system for monitoring performance information comprising:

a program executable by the processor to:

store the performance information in a database (**compliance data into database 12**) as a function of an area of interest of the performance information [Column 3, lines 56-57, Column 4, lines 41-43, Column 5, lines 55-57, Claims 1c, 15c];
monitor the performance information as it is stored for conformance against pre-established performance criteria (**evaluate and track the**

compliance of a participant) set by a program administrator **(program defines the criteria which must be met by a participant in the program in order to be in compliance)** in a system and flag the performance information that does not conform with the performance criteria **(recording a non-compliance in the database)** so that a report can be generated, either automatically or manually, as a function of at least a portion of the currently stored performance information in the plurality of databases [Column 3, lines 28-30, 56-57, 60-65, Claims 1a, 1f, 15a, 15f];

provide notification when the performance information deviates from the performance criteria **(identified profitable environmental measure are reported to the organizers of the environmental certification program and input into the database 12; participant reports its compliance {or non-compliance} with the program to the organizers of the program)** [Column 4, lines 40-43, Column 5, lines 55-57].

Beldock does not explicitly teach:

a processor;

a data storage device operably connected to the processor, the data storage device further comprising a number of individual storage units for storing a predetermined type of data; and

system accepting a plurality of forms from a plurality of sites, each of the forms including performance information as a function of uniform data definitions.

However, Beldock teaches the use of a database (**database 12**) to store data. The use of a database inherently requires the use of computing devices (which include a processor) and databases are operably connected to computing devices; thus Beldock meets the limitations of the claim.

Beldock also collects performance information from a plurality of facilities to assess program compliance with predefined criteria based on a function of performance at a plurality of facilities (the program requires that 4 profitable environmental measures are presently implemented at at least one facility, 4 profitable environmental measures are implemented in at least one facility, or a combination, and that said profitable environmental measures are implemented in 75% of all facilities within 3 years of initial certification in order to maintain certification) [Column 4, line 4- Column 5, line 53].

While Beldock teaches the step of collecting performance information data from a plurality of sites, Beldock is silent regarding the use of forms. However, it is old and well known in the art that forms are used in transmitting data (such as Electronic Data Interchange, survey results, questionnaires, etc.). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Beldock to accept performance information in forms, to enable the use of data transfer means such as Electronic Data Interchange, and standardize the presentation of data on said forms

(to include pre-filled data such as company name, address, etc.), which would enable the automated processing of information on the forms.

As per claim 38, Beldock teaches computer executable process steps operative to control a computer, stored on a computer readable medium, for monitoring performance information comprising the steps of:

storing the performance information in a database (**compliance data into database 12**) as a function of an area of interest of the performance information [Column 3, lines 56-57, Column 4, lines 41-43, Column 5, lines 55-57, Claims 1c, 15c];

monitoring the performance information as it is stored for conformance against pre-established performance criteria (**evaluate and track the compliance of a participant**) set by a program administrator (**program defines the criteria which must be met by a participant in the program in order to be in compliance**) and flagging the performance information that does not conform with the performance criteria (**recording a non-compliance in the database**) so that a report can be generated, either automatically or manually, as a function of at least a portion of the currently stored performance information in the plurality of databases [Column 3, lines 28-30, 56-57, 60-65, Claims 1a, 1f, 15a, 15f];

provide notification when the performance information deviates from the performance criteria (**identified profitable environmental measure are reported to the organizers of the environmental certification program and input into the database 12; participant reports its compliance {or non-compliance} with the**

program to the organizers of the program) [Column 4, lines 40-43, Column 5, lines 55-57].

Beldock does not explicitly teach:

(b) system accepting a plurality of forms from a plurality of sites, each of the forms including performance information as a function of uniform data definitions.

Beldock collects performance information from a plurality of facilities to assess program compliance with predefined criteria based on a function of performance at a plurality of facilities (the program requires that 4 profitable environmental measures are presently implemented at at least one facility, 4 profitable environmental measures are implemented in at least one facility, or a combination, and that said profitable environmental measures are implemented in 75% of all facilities within 3 years of initial certification in order to maintain certification) [Column 4, line 4- Column 5, line 53].

While Beldock teaches the step of collecting performance information data from a plurality of sites, Beldock is silent regarding the use of forms. However, it is old and well known in the art that forms are used in transmitting data (such as Electronic Data Interchange, survey results, questionnaires, etc.). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Beldock to accept performance information in forms, to enable the use of data transfer means such as Electronic Data Interchange, and standardize the presentation of data on said forms

Art Unit: 3623

(to include pre-filled data such as company name, address, etc.), which would enable the automated processing of information on the forms.

7. Claims 7, 25, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beldock (U.S Patent #6,490, 565) as applied to claims 1, 19, and 38 above, and further in view of Petke et al (U.S Patent #6,163,732).

As per claim 7, although not explicitly taught by Beldock, Petke et al. teaches the method of claim 1 wherein the step of providing notification further comprises **(automatically) providing notification to an environmental professional (notifying a governmental authority)** [Claim 31].

Beldock is directed to defining compliance criteria and recording an organization's compliance (or non-compliance) with said criteria. Petke et al. is directed to determining the compliance of chemical products to government regulations. Thus, both Beldock and Petke et al. are both directed to the analogous art of determining an organization's compliance to specific criteria.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Beldock to notify an environmental professional in order to quickly obtain remedies to problems, misconduct or wrong-doings that resulted in a failure to comply with predetermined compliance criteria (also providing the benefit

Art Unit: 3623

of minimizing adverse consequences), and to disseminate a positive, law-abiding corporate value, creating an atmosphere that discourages wrongdoing.

Claims 25 and 44 recite limitations similar to those discussed in the analysis of claim 7 above; therefore, the same rejection applies.

8. Claims 8, 26, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beldock as applied to claims 1, 19, and 38 above, and further in view of Barrett et al. (U.S Patent #6,029,144).

As per claim 8, although not explicitly taught by Beldock, Barrett et al. teaches the method of claim 1 further comprising the steps of:

reviewing data in the database for nonconformance with the modified performance criteria (**checking entries against each relevant rule in the rules database 402**) [Column 7, lines 41-48, Claims 1, 13a & 13b];

providing notification of nonconformance with the modified performance criteria (**log the rule violation and send, along with a recommendation for action, to the auditor system**) [Column 8, lines 58-60, Claims 1, 13b & 13c].

Beldock is directed to defining compliance criteria and recording an organization's compliance (or non-compliance) with said criteria. Barrett et al. is directed to checking entries for compliance with policy rules. Thus, both Beldock and Barrett et

Art Unit: 3623

al. are directed to the analogous art of checking an organization's compliance with rules and criteria.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Beldock to include the steps of comparing data with compliance requirements, and providing notification of nonconformance with said compliance requirements, because it would provide a basis to benchmark existing programs, identify improvement opportunities and identify potential best practices, and help a business focus on developing and delivering near-perfect products and services, while improving customer satisfaction, and providing an up-to-date assessment (and compliance with all updated applicable rules, laws and regulations) of company practices, further enhancing shareholder values while reducing potential risks to the business.

Although the combined teachings of Beldock and Barrett et al. do not explicitly teach the step of modifying performance criteria, Official Notice is taken that compliance criteria needs to be updated to reflect changes in federal, state, and local laws and regulations, program requirements of federal and state-funded programs, and industry standards (such as ISO certification, Quality Control Initiatives, etc.), as well as self-imposed rules and regulations.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Beldock et al. to modify performance criteria, to provide accurate assessments of compliance with all current and valid limitations (as discussed above), as assessing compliance using outdated rules yields a useless result, which may result in undesirable consequences for a failure to comply.

Claims 26 and 45 recite limitations similar to those discussed in the analysis of claim 8 above; therefore, the same rejection applies.

9. Claims 14, 33, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beldock (U.S Patent #6,490,565) as applied to claims 1, 19, and 38 above, and further in view of Smalley et al. (U.S Patent #6,067,549).

As per claim 14, although not explicitly taught by Beldock, Smalley et al. teaches the method of claim 1 further comprising the step of generating a summary report **(enforcement order report)** at a pre-established review period, the report comprising a comparison of the performance information to the pre-established performance criteria in the system **(listing violations that need to be addressed, along with the amount of the penalty and corrective actions to be required)** [Column 19, lines 30-47].

Beldock is directed to defining compliance criteria and recording an organization's compliance (or non-compliance) with said criteria. Smalley et al. is

Art Unit: 3623

directed to managing information on regulated entities pertaining to environmental concerns in order to determine if any violations of regulatory requirements have been made. Thus, both Beldock and Smalley et al. are directed to the analogous art of collecting information to determine if an organization is in compliance with requirements.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Beldock to include the step of generating a summary report, because it would provide a basis to benchmark existing programs, identify improvement opportunities and identify potential best practices, help a business focus on developing and delivering near-perfect products and services, while improving customer satisfaction, ensuring that all activities are in compliance with all applicable rules, laws and regulations, and further enhances shareholder values while reducing potential risks to the business.

Claims 33 and 51 recite limitations similar to those discussed in the analysis of claim 14 above; therefore, the same rejection applies.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fetherston (PGPub US2002/0120642) teaches a system and method for assisting an organization to implement and maintain compliance management programs. Compliance criteria with Health and Safety legislation, as well as Environmental Risk Hazards are maintained in databases and used to assess an organization's compliance with said criteria.

Sturgeon et al. (U.S Patent #5,726,884) teaches an integrated hazardous substance tracking and compliance apparatus. Hazardous materials are defined, as are response protocols. Information is stored for each facility of an organization, as well as the hazardous materials used within each facility. Compliance regulations for handling of said hazardous materials are also defined.

Sturgeon et al. (U.S Patent #5,664,112) teaches an integrated hazardous substances management unit. Functional groupings of information are integrated into a single system and information on hazardous substances is shared or exchanged for in-house and regulatory compliance-related functions. Hazardous materials are defined, as are response protocols.

Wiitala et al. (U.S Patent #6,122,622) teaches a computer-aided system for determining compliance with chemical control laws of different jurisdictions. Databases are used to stored a plurality of chemical control laws, and records of chemical usage in manufacturing and production.

Buddle et al. (U.S Patent #6,912,502) teaches a system and method for monitoring compliance with various requirements and issues identified for business processes and products. The individuals or entities responsible for the business processes and products are identified. Action plans based on compliance requirements and issues may be created, and forwarded to appropriate individuals or entities. Results of action plans are monitored to determine whether compliance requirements and issues are being appropriately addressed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (571) 272 6971. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PC

August 29, 2005

Susanna Diaz
SUSANNA M. DIAZ
PRIMARY EXAMINER
AU3623